(2) (3)

No. 87-205, No. 87-206

Supreme Court, U.S.
FILED
AUG 19 1987
JOSEPH F. SPANIOL, JR
CLERK

In The

Supreme Court of the United States

October Term, 1987

ALASKA MINERS ASSOCIATION, *Petitioner,*

v.

TRUSTEES FOR ALASKA, *et al., Respondents,*

and

STATE OF ALASKA, *et al., Respondents,*

and

FAIRBANKS NORTH STAR BOROUGH, JOSEPH VOGLER, *Respondents.*

STATE OF ALASKA, *et al., Petitioners,*

v.

TRUSTEES FOR ALASKA, *et al., Respondents,*

and

ALASKA MINERS ASSOCIATION, *Respondent,*

and

FAIRBANKS NORTH STAR BOROUGH, JOSEPH VOGLER, *Respondents.*

ON PETITIONS FOR WRIT OF CERTIORARI TO THE ALASKA SUPREME COURT

BRIEF OF RESPONDENT, FAIRBANKS NORTH STAR BOROUGH, IN SUPPORT OF PETITIONS FOR WRIT OF CERTIORARI Filed By STATE OF ALASKA and ALASKA MINERS ASSOCIATION

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QUESTIONS PRESENTED

Respondent, Fairbanks North Star Borough, adopts by reference the questions presented by the State of Alaska and the Alaska Miners Association.

LIST OF PARTIES

Respondent, Fairbanks North Star Borough, adopts by reference the list of parties presented by the State of Alaska and the Alaska Miners Association.

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BRIEF OF RESPONDENT, FAIRBANKS NORTH STAR BOROUGH, IN SUPPORT OF PETITIONS FOR WRIT OF CERTIORARI Filed By STATE OF ALASKA and ALASKA MINERS ASSOCIATION

INTRODUCTION

This response is in support of two separate petitions for writ of certiorari filed in the same case below, *Trustees for Alaska v. State of Alaska*, Case No. S-1142,

slip op. (Alaska May 1, 1987). Petitions for writ of certiorari were filed by the Alaska Miners Association and the State of Alaska. Respondent, Fairbanks North Star Borough (Fairbanks), defendant-intervenor in the case below, supports both petitions.

OPINIONS BELOW

The petitions are in support of review of *Trustees for Alaska v. State of Alaska,* Case No. S-1142, as reproduced in the appendices of Alaska Miners Association and State of Alaska.

JURISDICTION

This Court has jurisdiction under 28 U.S.C. § 1257(3) as explained in *Cox Broadcasting Corp. v. Cohn,* 420 U.S. 469 (1975).

STATUTE INVOLVED

The petitions challenge the Alaska Supreme Court's interpretation of Section 6(i) of the Alaska Statehood Act, 72 Stat. 339 (1958), codified at the note preceding 48 U.S.C. § 21:

> "All grants made or confirmed under this Act shall include mineral deposits. The grants of mineral lands to the State of Alaska under subsections (a) and (b) of this section are made upon the express condition that all sales, grants, deeds, or patents for any of the mineral lands so granted shall be subject to and contain a reservation to the State of all of the

minerals in the lands so sold, granted, deeded, or patented, together with the right to prospect for, mine, and remove the same. Mineral deposits in such lands shall be subject to lease by the State as the State legislature may direct: *Provided,* That any lands or minerals hereafter disposed of contrary to the provisions of this section shall be forfeited to the United States by appropriate proceedings instituted by the Attorney General for that purpose in the United States District Court for the District of Alaska." (Emphasis in original.)

STATEMENT OF THE CASE

Fairbanks adopts the statements of the case set out by the Alaska Miners Association and the State of Alaska with the following elaboration.

There are two fundamental concerns in this case. First, actions of the Alaska state courts have called into question the degree to which a state court may act to enforce federal law when Congress gives the exclusive role of enforcement to the United States. Second, while improperly interpreting federal law, the Alaska Supreme Court ignored the specific directives of that law requiring that the terms of Alaska's mineral leasing system should be set by the state legislature. Instead the court held that a totally unrelated federal statute should define the terms of state mineral leasing. These errors threaten the independence and economic viability of the state land mining industry, upon which Fairbanks is dependent in part for its economic vitality.

When Congress passed the Alaska Statehood Act a fundamental compact between the state and the federal

government was created. As part of the Alaska Statehood Act the state was given the right to select 104 million acres of federal land for itself. Unlike the initial statehood land grants to other states, Congress allowed the state to select both mineral and nonmineral lands as part of the selection process in order to ensure that the state would have an adequate resource base to make statehood a self-supporting proposition.

To prevent the state from squandering this resource, Congress placed restrictions on how the state could manage its own resources. Specifically, in Section 6(i) of the Statehood Act Congress provided with respect to "mineral lands" that whenever the surface estate on mineral lands is disposed of the state must retain the mineral rights for itself. Second, Congress provided that mineral deposits in "such" lands "shall be subject to lease by the State *as the State legislature may direct.*" Section 6(i) (emphasis added). Third and finally, Congress decided that in the event the state should violate the terms of this section, the United States could bring an action in forfeiture in the state courts.

Trustees for Alaska, *et al.* (Trustees), respondents in these petitions, and plaintiffs and appellants in the court below, have been steadfast opponents of the mining industry in the State of Alaska. Convinced that the present system of mineral leasing on state lands encourages the industry, the opponents of mining have long been attempting to convince the Legislature to change the system and impose instead high rents or royalties based on some ill-defined conception of "fair market value." Fortunately, the Legislature has been unwilling to accede to these requests.

Unsuccessful before the Legislature, Trustees set out to convince the state courts that when Section 6(i) calls for mineral leasing, it is actually calling for a leasing system with rents and royalties based upon "fair market value" and modeled after the federal Mineral Leasing Act of 1920. In this attempt, the Trustees have so far been successful in convincing the Alaska Supreme Court that the Statehood Act has been violated. The state court found the Act requires rents or royalties because the definition of lease in Section 6(i) is dictated by federal laws such as the Mineral Leasing Act of 1920.

This ruling ignores the plain language of the Statehood Act that only the state legislature may define the terms of mineral leases, that only the United States may bring an action to enforce the Statehood Act, that the definition of a mineral lease is not dictated by federal law, and that the state has had a fully effective mineral leasing system in place for years.

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REASONS FOR GRANTING THE WRITS

I

THE ALASKA SUPREME COURT VIOLATED CONGRESS' WILL WHEN IT EXERCISED JURISDICTION TO DETERMINE WHETHER ALASKA HAS COMPLIED WITH SECTION 6(i) OF ITS STATEHOOD ACT

As discussed in the petitions of both the State of Alaska and the Alaska Miners Association, Section 6(i) provides that the United States is the only entity with jurisdiction to bring suit based on any alleged violations

of the Statehood Act. The legal reasoning for finding no private right of action to enforce the terms of the Statehood Act is set out in the petitions of the State of Alaska and the Alaska Miners Association. State of Alaska petition at 20-33; Alaska Miners Association petition at 6-9.

As stated in *Middlesex County Sewerage Authority v. National Sea Clammers Association*, 453 U.S. 1, 14-15 (1981), " 'it is an elemental canon of statutory construction that where a statute expressly provides a particular remedy or remedies, a court must be chary of reading others into it.' " One of the dangers alluded to in *Middlesex County* is precisely the problem presented to this Court. Congress recognized a need to limit jurisdiction to federal courts and restrict the enforcement of certain statutes to particular parties to ensure informed, uniform interpretations of the law. While purporting to interpret federal law the state court hopelessly confused the basic principles governing the interpretation of federal law and allowed parties, not authorized by Congress, to sue to enforce a federal law.

For example, one of the most basic jurisdictional principles of federal law is that only those parties with an actual stake in the outcome of a dispute have standing to invoke the jurisdiction of the federal courts. *See, e.g., Valley Forge Christian College v. Americans United for Separation of Church and State, Inc.*, 454 U.S. 464 (1982). Yet the state court ignored this principle and found Trustees had standing. It is simply inconceivable that Trustees, relying on the status of "taxpayers" and "citizens," would have obtained standing in federal courts to challenge a state's compliance with the Statehood Act. Yet,

by permitting Trustees to maintain this suit, the most basic principles of the relationship between the federal government and the State of Alaska have been adjudicated at the behest of a party whose only *real* interest in this case is to discourage the mining industry. In a nutshell, the court below reasoned that Trustees should be permitted to bring this suit because they are capable and no one else has availed themselves of the opportunity. Alaska Miners Association appendix at A-14 to A-15.

Fairbanks submits that it is critical for the Court to grant the writs to clarify for state courts that such a momentous issue as the interpretation of the Alaska Statehood Act is more suitably decided in federal courts with the United States as an active party, especially when Congress expressly lays out the appropriate procedure to do this in the Statehood Act.

II

THIS COURT SHOULD REVIEW THIS CASE TO CORRECT SERIOUS MISINTERPRETATIONS OF FEDERAL LAW

There are few documents as crucial to the relationship between the State of Alaska and the federal government as the Statehood Act. The Alaska Supreme Court's interpretation of Section 6(i) has distorted the meaning of that Act, and has done so to the detriment of important principles of state sovereignty. To restore the proper balance between state and federal relations, this Court should review the decision below.

With Section 6(i) Congress gave the state the right to select mineral lands. Congress also placed certain restrictions on the state's ability to alienate those mineral

lands, namely that on certain mineral lands the mineral estate could not be disposed of except by lease.[1]

Congress was chary, however, of interfering too much in the internal affairs of the new State of Alaska. It declined to set any conditions on the state leasing system. Those that it considered it rejected. Instead, it expressly decided that "[m]ineral deposits in such lands shall be subject to lease by the State as the State legislature may direct." This is exactly how the system operated for nearly 30 years until the opinion below was handed down. Now, however, with one fell swoop, the state legislature finds itself compelled to enact a leasing system with rents and royalties because the court below found that certain federal leases and the Mineral Leasing Act of 1920 require rents or royalties.

Contrary to considerable federal precedent, the court ruled that the Legislature's existing system of encouraging mineral development with a $200 per year work requirement or rental was not a rental. It further found that the existing mineral license tax, which operates much like a royalty for all mineral development in the state, *see* Alaska Stat. § 43.65.010, did not satisfy the so-called royalty requirement in leases. Finally, the court below did not even address whether Section 6(i)'s reference to "such lands" that must be leased referred to all mineral lands

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[1] The issue of whether or not Congress actually has the power to dictate how a state may manage its own property was raised by Fairbanks in the Superior Court below where it was argued that the Tenth Amendment to the United States Constitution placed limits on such power. However, in the wake of *Garcia v. San Antonio Metropolitan Transit Authority*, 469 U.S. 528 (1985), this argument was not pursued.

or only those lands where the surface estate has been disposed of previously. Thus misinterpretation and confusion abound.

In short, contrary to the Statehood Act the state Supreme Court, rather than the state legislature, has become the final arbiter on what the state's mineral leasing system should look like. The court mistakenly ignored Section 6(i)'s directive that the Legislature shall determine the scope of the leasing system, and instead reasoned that it is compelled by unrelated, irrelevant federal law to impose a new system of rents or royalties.

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CONCLUSION

The court below ignored relevant federal law by granting Trustees a private right of action and standing. Worse, the court below found the state legislature's ability to manage state mineral lands to be circumscribed by unrelated, irrelevant federal law. Both errors are in direct contradiction to Congress' intent and express language in the Alaska Statehood Act. This Court should grant the petitions for writ of certiorari in this case in order to restore balance to the basic federal relationship between the state and federal governments.

DATED: August, 1987.

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